

REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendmetns and following remarks.

Claims 1-6 are canceled without prejudice and replaced with new claims 7-15. New claims 7-11 correspond to original claims 1-2 and 4-6, respectively. New claim 12 is supported by original claim 6. New claims 13-15 are added for additional patent protection. New claims 13-14 are directed to a composition comprising or consisting of a plurality of crystals of claim 7. New claim 15 corresponds to claim 8 but omits the degrees limitation. Such limitation is not deemed to be necessary since the specification clearly establishes in the Examples that use of 1-butanol alone or together with other solvent produces the crystalline form of antibiotic of this invention.

Turning to the Official Action, claims 1-6 were rejected under 35 USC 112, second paragraph, as being indefinite for the reasons set forth. Each of these grounds of rejection are respectfully traversed as applied to the new claims.

Claim 7 corresponding to claim 1 now recites the limitation "an X-ray diffraction method".

Claims 7-8 corresponding to claims 1-2 still recite "characteristic 2 θ values". The metes and bounds of the claimed 2 θ values would be well understood by one skilled in the art taking into account the knowledge in the art and teachings of the specification. Page 3, line 19 of the specification teaches a specific diffraction method. The measuring conditions under which the diffraction method are conducted in the Examples of the specification is described on lines 1-4 of page 6 of the specification. Enclosed is a copy of pages 2088-2089 of the United States Pharmacopeia, describing the well known X-ray diffraction method. The precision of the 2 θ values according to the claims would be well understood by those skilled in the art taking into account the knowledge in the art and the foregoing detailed information discussed in the specification. Accordingly, the recited 2 θ values are respectfully submitted to be definite to one skilled in the art.

Claim 8 corresponding to claim 2 recites specific method steps of the claimed process.

The claims recite "first solvent" and "second solvent" in place of poor and good solvents, respectively. In this regard, the subject matter of claim 3 has been incorporated into claim 8 to define the first solvent.

In view of the foregoing, it is believed that the rejection under 35 USC 112 has been overcome.

Claim 2 was further rejected under 35 USC 102 and/or 103 over Arcamone et al.

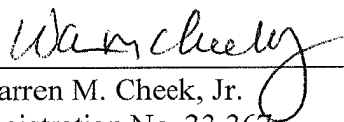
This ground of rejection is deemed to be overcome by incorporation of the subject matter of non-rejected claim 3 into claim 2, now presented as claim 8.

Favorable reconsideration and allowance is respectfully solicited.

Respectfully submitted,

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